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Promoting Human Rights in Russia Through Support to Non-governmental Organizations: How to Improve the Strategies of the European Union

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ELENA KLITSOUNOVA

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Abstract

The European Union places a great deal of emphasis on the promotion of human rights, but if it is to develop as a serious actor in this field it will have to find new and more creative ways of talking with the Russians about human rights issues. For those in the European Union and Russia hoping for a strategic partnership between the two parties, a key issue is if and how to improve European Union policies towards the Russian Federation. The question for policy makers is how to manage NGOs involvement in such a way that it would bring much needed changes to Russia's human rights behaviour. This paper looks at possible ways to strengthen the European Union's policy of promoting human rights in Russia and at the assistance of NGOs in this aim. It attempts to provide insight into the complex relationship between the Russian government, civil society and the human rights NGO sector. It sheds light on what kind of policy instruments have been used and developed in recent years by the European Union to assist in the promotion of human rights and looks at why the European Union has had limited success in exporting the values of human rights to Russia. Finally it offers recommendations for a realistic European Union human rights policy towards Russia.

This policy paper was produced under the 2006-07 International Policy Fellowship program. Elena Klitsunova was a member of 'The Challenge of Wider Europe' working group, which was directed by Michael Emerson. More details of their policy research can be found at <http://www.policy.hu/themes06/weurope/index.html>.

The views contained inside remain solely those of the author who may be contacted at klitsunova@policy.hu. For a fuller account of this policy research project, please visit <http://www.policy.hu/klitsunova/>.

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Introduction

With increasing frequency and intensity the debate over human rights values becomes an uneasy background theme in the EU-Russia dialogue. Many within the EU are concerned about the weakening of the European orientation of Russia – the trend which, according to EU policy-makers, is particularly noticeable in the fields of human rights and democratization. There is also growing dissatisfaction on the part of both EU and Russian actors stemming from the gap between the EU high ambitions to converge Russia on European values and its relatively limited achievements in this field. Nevertheless, the EU is still expanding its human rights promotion programs and constantly claims that it is eager to keep human rights high in its relationship with Russia. For those within the EU and Russia who are still hoping for strategic partnership between the two parties, a key practical issue is if and how to develop and improve EU policies towards the Russian Federation.

The EU advocates for itself a policy which includes great deal of human rights promotion. This policy is based on the belief that the EU is capable of acting as a “norm-sender”, i.e. the belief that by communicating and transferring the collection of certain norms and rules to Russia the EU can successfully stimulate Russia’s convergence on human rights values. This policy also presupposes the existence of non-state actors that can be involved in “Europeanization-by-socialization” process and motivated to pressure the government for compliance with human rights norms. Consequently, supporting those Russian non-governmental organizations that are seen as inspired by European values to enlighten Russian public and government has become a target of EU’s Russia human rights policy. The question for policy-makers is no longer whether but *how* to manage NGOs involvement in such a way that it would bring needed changes in Russia’s human rights behavior.

This paper looks at possibilities to strengthen EU’s Russia policies of human rights promotion and NGOs assistance from two perspectives. Firstly, it seeks to provide more insights into the complex relationship between Russia’s government, civil society and human rights NGO sector and to

analyze the potential of human rights NGOs to project European vision of human rights into Russia and to be a catalyst for policy change. Secondly, it seeks to shed more light on what kind of policy instruments used and developed in recent years by the EU to assist human rights promotion in Russia. The focus of this part of the paper is the direct actions and initiatives of the Commission, European Parliament and Council rather than the programs and policies of individual member-states. This section looks at the reasons that the EU has had relatively limited success in exporting human rights values to Russia. Finally, the paper offers recommendation for a realistic EU's human rights policy toward Russia.

1. Russian human rights NGOs

Despite the crucial importance of these policy actors, we still know considerably little about institutional capacity and practices of human rights NGOs in Russia. To paraphrase S. Mendelson and J. Glenn¹, little is *known* – although much good and bad is *believed* – about the impact of NGOs on Russian policy making process. This paper aims at providing useful insights into the development of human rights NGOs community in Russia by taking a modest approach – it elaborate only several criteria of this development in order to broaden understanding of NGOs' capabilities to project European vision of human rights into Russia and to be a catalyst for policy change.

1.1. *The number, roles and networks of human rights NGOs*

The last decades have seen exponential growth in the number of NGOs in Russia, including those specifically asserting a human rights approach to their work. By 2001, Russia has approximately 19,500 human rights NGOs, which constituted about 5 per cent of all NGOs registered in the country by that time². Among those active non-governmental organizations which are registered in Russia in 2007, hundreds are human rights NGOs³. The last

¹ S. Mendelson and J. Glenn, Democracy Assistance and NGO Strategies in Post-Communist Societies, *Carnegie Working Papers*, 8/2000, p.6.

² By 2001, according to information from Russian Ministry of Justice, over 375,000 non-governmental organizations were registered in Russia, and about 5,2 % of them were human rights NGOs. Konovalova L., Yakimets V, "Социальное партнерство между государством и неправительственным сектором как фактор развития гражданского общества и эффективного управления», Обзорный доклад, Московское бюро Юнеско, 2001; <http://peace.unesco.ru/docs/konovalova.pdf>

³ According to the data from the Committee on Statistics of the Russian Federation, in the beginning of 2007 there were at least 665,000 registered nongovernmental non-commercial organizations operation in Russia. Accurate counts of NGOs in existence were not available, as official government records of NGOs included all those that are formally registered, while many of them were no longer active. See *Доклад общественной палаты Российской Федерации о состоянии гражданского общества (2007)*; *CIVICUS Civil Society Index Report for Russia*, 2006, available at http://www.civicus.org/new/media/CSI_Russia_Country_Report.pdf. By 15 April 2006, only 216,000 NGOs managed to re-register according to the new "NGO law". See "NKO prodemonstrovali vysokuju lekvidnost", *Kommersant*, 148 (3724), 20.08.2007, available at <http://www.kommersant.ru/doc.aspx?docid=796618>.

decades have also seen quick geographical expansion of human rights movement: while throughout the entire Soviet period the movement was almost completely concentrated in Moscow, presently human rights NGOs operate in all 89 regions of the Russian Federation.

Russian human rights NGOs are considerably diverse in size, structure, and policy ambit: they act as agenda-setting, standard-setting, monitoring and enforcement, and aid and education organizations within the field of human rights. Some human rights NGOs function primarily to handle individual complaints and exhibit a concern with concrete cases of human rights violations. Others do not concentrate on “defense of the right of a concrete person in each concrete situation” but rather adopt more broad approach to human rights issues and aim to make recommendations on the national human rights situation in general and proposals for changes in legislation or policies. Some human rights NGOs are more focused on research, in-depth teaching on human rights, and providing expertise on specific policy issues, while others are less research-driven than engaged in advocacy and dissemination of ideas in simplified forms.

While high diversity of the instruments, mechanisms and practices that human rights NGOs use in Russia is a striking⁴, another important characteristic of Russian human rights NGOs community is a high level of its involvement in various national and transnational knowledge⁵-, advocacy-, and policy-based networks. Many human rights NGOs have already invested and continue to invest substantial effort and resources into fostering NGOs’ networking. Examples include the “Memorial” Society, The Moscow Helsinki

⁴ As L. Alekseeva noted that “Each particular organization has its own brand of vigor as well as its own successful field of activity. Krasnoyarsk and Novgorod became the first regions to bring law students into their public legal aid offices... In Ryazan, as well as in the regions of Arkhangelsk, Nizhnii Tagil and Kemerovo, a close interaction between human rights organizations and independent trade unions has developed... In Voronezh, Perm’, and Tomsk, considerable access has been achieved in making a course on human rights part of the mandatory school program. In Rostov, reports on the violations of the rights of conscripts and citizens on trial have been published. ...in Nizhnii Novgorod, human rights activists monitored torture and beating at the city police stations”. L. Alekseeva, “Private measures by which to ensure fundamental rights in present-day Russia: a view from inside”, *Helsinki Monitor*, Vol. 11, no. 3, 2000

⁵ The RAPN Research Committee on Human Rights Issues is a good illustration of knowledge-based human rights networking, <http://www.rapn.ru/?grup=291>

Group (MHG), The Association of Regional Human Rights Organizations, to list just a few. At present, the “Memorial” Society has been a network of dozens of organizations in different regions of Russia, Ukraine, Kazakhstan, Latvia, and Georgia.⁶ The MHG is another large networking NGO in Russia, with about 200 regional organizations participating in MHG network initiatives.⁷ The Association of Regional Human Rights Organizations, initiated in 1999 as a network of regional NGOs, united 75 organizations.⁸ Many other networks tend to be less formal, less systematic or less open to public scrutiny, including those networks that developed between NGOs from Russia, EU member states and international human rights NGOs. It is difficult to gauge the degree of diffusion of human rights ideas or policy approaches through these networks, but it is likely to be deep.

The interactions between human rights NGOs at both the Russian and an international (European) level have created venues where information is transmitted and skills and expertise are shared. It also appears that many Russian NGOs have become deeply involved, either directly or through their umbrella organizations, in pan-European human rights policy networks – where NGO, government and international organization actors share the rhetoric, the language, and scholarly discourses that shape the terms of public debate over human rights issues and underpin relevant policies. At present, considerable number of Russian human rights organizations seems to be integrated with the EU milieu and be interested in projecting European norms and practices into Russia.

⁶ <http://www.memo.ru/eng/about/whowe.htm>

⁷ <http://mhg64.valuehost.ru/>

⁸ <http://www.association.hrworld.ru/citis.htm>

1.2. Public Support and Awareness

The extent of public awareness and public support for human rights NGOs organizations should be among most important indicators of the development of these organizations in Russia. Yet, the question still remains to what extent Russian public opinion is articulated and informed about the existence and work of human rights NGOs and whether people in Russia are prepared to apply their declaratory support for these organizations. To date, survey data on Russians' attitudes towards the human rights situation in the country as well as towards human rights organizations have provided quite mixed evidence.

First, Russian citizens' dissatisfaction with the human rights situation in the country has been well documented. In its 2006 Russia-wide survey, the Levada center found that the majority (68 percent) of respondents did not feel protected by the law. Moreover, third of respondents (32 percent) raised their concern about serious human rights abuses in the country⁹. Most recent survey found that the 72 percent of Russian respondents were sure that human rights are violated in Russia¹⁰.

Second, although human rights situation is seen by the public as serious problem affecting enormous number of people, surveys found that only tiny minority of Russian citizens (4 percent) believed that they would turn to the human rights NGOs for assistance in situations of human rights abuses.¹¹ Again, survey data provide quite mixed evidence to answer the question why the idea of NGOs involvement in human rights protection does not appeal to the Russian public. On the one hand, many Russians feel positively about the term "human rights protection" in general¹² and believe that national, sub-

⁹ "Voices from Russia: Society, Democracy, Europe. EU-Russia Center / Levada Center Research, February 2007, <http://www.eu-russiacentre.org/assets/files/EU-RC%20Levada%20Research%20Commentary.pdf>

¹⁰ *Narushenie prav cheloveka*, Levada Center, 09.11.2007, available at <http://www.levada.ru/press/2007110904.html>.

¹¹ VCIOM Press-release no. 557, 19.10.2006, <http://wciom.ru/arkhiv/tematicheskii-arkhiv/item/single/3441.html>

¹² "Voices from Russia: Society, Democracy, Europe. EU-Russia Center / Levada Center Research, February 2007, <http://www.eu-russiacentre.org/assets/files/EU-RC%20Levada%20Research%20Commentary.pdf>

national and local governments units should support the activity of human rights organizations in every possible way¹³. On the other hand, the majority of Russians seems to have very limited knowledge about human rights NGOs. When questioned about specific organizations, most respondents had never heard of the most prominent human rights NGOs. The surveys found that only 22 percent and 8 percent of respondents were familiar with the activities of the “Memorial” Society and the MHG, respectively¹⁴ (while these two organizations are seen by many EU policy-makers as Russia’s most important organizations in the field of human rights). Moreover, quite often Russians’ understanding of human rights is some that they are guaranteed rather by the paternal state responsible for social welfare of its citizens than by non-governmental organizations. To the extent that citizens are aware of NGOs, they typically argue that human rights defense should not be the primarily goal of these organizations (see Table 1).

Summing up, Russian human rights NGOs have not yet grown into a movement with a great deal of press coverage or public support; at present they are unlikely to be capable of dramatically shifting those domestic incentives that define current Russia’s human rights policy. Human rights NGOs – their agenda, arguments and practices – do not receive high level of engagement from Russians. A whole host of problems has contributed to such a situation. Human rights NGO representatives often accuse the mass media of providing very limited coverage of NGOs activities and refer to the deepening lack of press freedom in Russia. But the situation is complicated also by the fact that many Russian human rights NGOs lack carefully-designed policies of strategic interactions with the public and the media¹⁵.

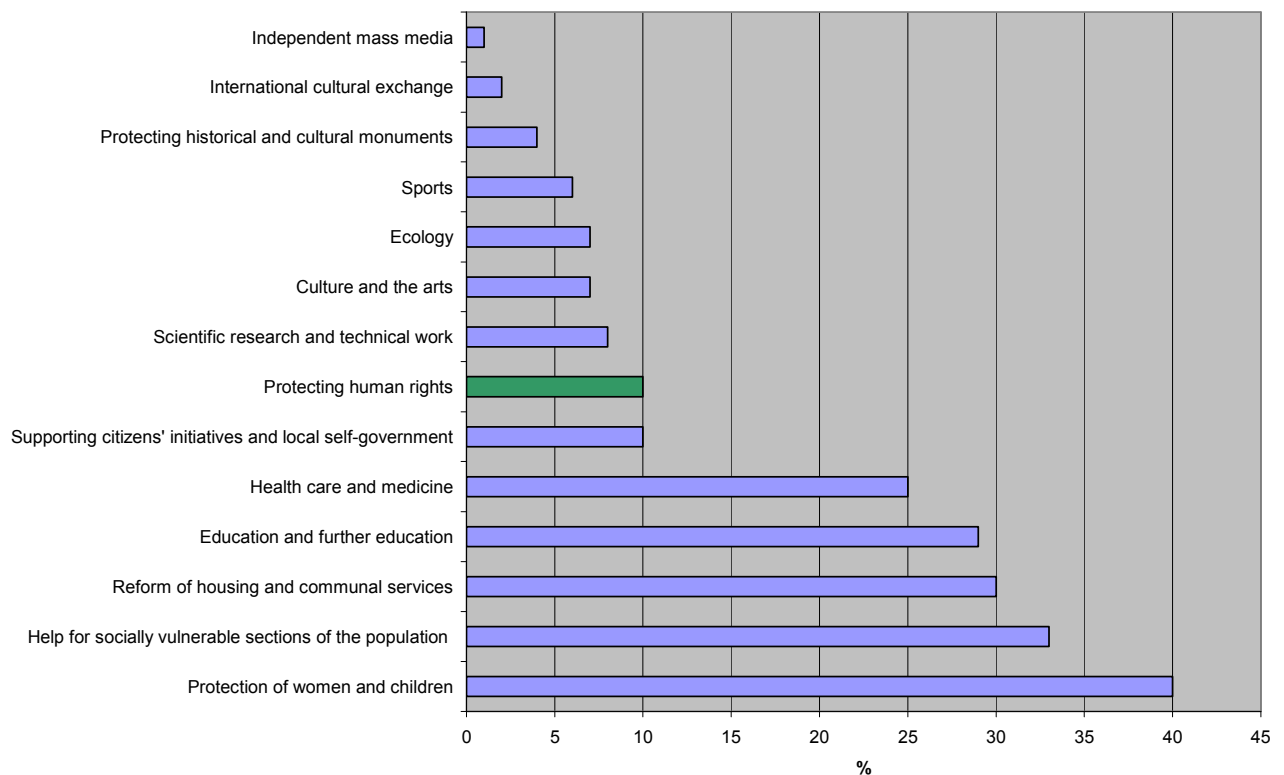
¹³ Recent survey commissioned by the Russian Public Chamber found that 52 percent of respondents believed that national, sub-national and local governments should support human rights NGOs in every possible way. The overwhelming majority of local government servants (67 percent of respondents) also agreed with the idea that human rights organizations should be supported. *Doklad Obshestvennoj palaty Rossijskoj Federatsii o sostojanii grazhdanskogo obshestva* (Доклад Общественной палаты Российской Федерации о состоянии гражданского общества), 2007.

¹⁴ Theodore P. Gerber and Sarah E. Mendelson, Strong Public Support for Military Reform in Russia. *Ponars Policy Memo 288* (May 2003). Available at http://www.csis.org/media/csis/pubs/pm_0288.pdf

¹⁵ A.Sevorstyan, *Issledovanie effektivnosti raboty pravozashitnyh organizatsij*, Moscow, 2005.

Areas in which NGOs should be active

Table 1:



Source: *Donorskie i nekommercheskie organizatsii: chto my o nih znaem*, Moscow 2005, p.39.
Available at: <http://www.donorsforum.ru/images/stories/Resultsresearch.pdf>.

Failures of public communication experienced by many NGOs can also be explained as a result of the difficult normative context they encounter. Recent surveys found that Russian citizens perceive human rights in terms of three distinct normative dimensions: civil liberties (e.g., freedom of religion, association, and expression), economic rights (e.g., the right to work, to own property, and to social welfare) and rights of the person (e.g., freedom from torture and from arbitrary arrest). Support for these varies greatly, with economic rights enjoying the highest level of support (65 percent of respondents), civil liberties the least amount of support (12 percent), and rights of the person in between¹⁶. Given that the majority of Russians back a cluster of economic rights while demonstrating a high level of indifference toward civil liberties, human rights NGOs should search for new ways in which they frame those problems that they are trying to solve.

One tremendous challenge which Russian human rights NGOs face today is a resistant domestic normative context. They are unlikely to succeed in reaching the Russian public and becoming a catalyst for human rights policy change, unless they manage to convert their claims and agendas into messages that resonate with norms that are already widely accepted by the Russians.

1.3. NGOs, state actors and human rights policy making

Another crucial challenge for Russian human rights NGOs is building cooperative engagement with government and capturing a space in state-dominated policy-networks. In the early 1990s, many human rights activists were members of federal and regional parliaments and governments and had deep involvement in drafting and implementing the concept of legal reforms in Russia. At that time, much of legal reforms came from those human rights activists and organizations who, in the course of post-communist transformation, became prominent members of decision- and policy-making

¹⁶ Theodore P. Gerber and Sarah E. Mendelson, How Russians Think about Human Rights: Recent Survey Data. *Ponars Policy Memo 221* (December 2001).

community. However, by the end of Yeltsin's era, the political window that had allowed a radical legal reform had closed, faster than anyone expected, and human rights activists and organizations were "squeezed out" of governments. By the end of the 1990s, they had relatively little access to decision- and policy-making and faced serious problems in their attempts to build new formal and informal channels of access to politicians and bureaucrats.

At present, Russian human rights NGOs can be distinguished from one another by their attitudes towards cooperation with government. A number of NGOs in principle oppose the idea of fostering cooperative relationship with politicians and bureaucrats from Putin's team. In their view, such cooperation would provide Putin's authoritarianism with respectable "democratic" clothes and insulate it from criticism of deteriorating human rights' situation in the country. Others argue that effective advocacy always requires an ongoing positive relationship with government and try to use every chance to get access to decision- and policy-making as well as to educate or socialize decision-makers and actors within government into human rights ideas.

As non-state actors, human rights NGOs have a limited formal decision-making role, and therefore they cannot impose policies on a political system. What they can do is to exhort. If governmental actors are not receptive to, or aware of, non-state actors' recommendations in a policy area, there is little hope for policy change. Yet, the questions remain (1) to what extent decision-makers are receptive to NGOs ideas and recommendations; (2) what are the opportunities and constraints to NGOs involvement in policy-making. At present, the evidence is mixed:

1.3.1. Constraints on NGOs

It is clear that a comparatively closed and centralized political system makes it difficult for societal actors, including human rights NGOs, to influence the policy-making process with their own independent expertise and creative proposals. And the trend appears to be deepening. The centralization of political and state institutions grows in parallel with the Russian leadership's

efforts to design institutional and organizational arrangements controlling the links between state and society and channeling societal demands in carefully managed directions.

What is commonly known as “**the NGO law**” is part of the broader reform which aimed at introducing amendments to the Civil code, the law on non-profit organizations, the law on public associations, and the law on closed administrative territorial formations. The entire reform package is relevant to regulating the work of NGOs, but so far the only changes to the law on non-profit organizations have been widely discussed. On 23 November 2005, the State Duma accepted the bill “on measures aimed at implementing certain provisions of the Federal laws regulating activities of non-commercial organizations” at its first reading. Numerous Russian NGOs responded to the decision with protests, arguing that the bill was aimed at subjecting NGOs to tighter state control and at obstructing their work. They also stressed that the bill was at odds with both international standards and the Russian constitution. Advocates of the bill had based their argumentation on security and political aspects. In justifying the need for stricter control over financial flows to Russian NGOs, Russian officials referred to the fight against terrorism and money laundering and pointed to restrictions of NGOs to be found in other countries. President Putin repeatedly stressed that he opposed the foreign funding of “political activities” of NGOs in Russia. The “color revolutions” provided additional discursive framework for those commentators who were stressing the need for tighter control over NGOs funded by foreign donors.

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commentators who were stressing the need for tighter control over NGOs funded by foreign donors.

Protesting NGOs managed to mobilize their networks and to draw attention of the international community to the issue. The Council of Europe, the European Union, the United States, the international media became involved in the debate on the NGO law. Facing mounting criticism, Russian officials suggested amending the bill according to international standards and recommendations made by the Council of Europe. After intensive consultations and discussions held in both Moscow and Strasbourg, the text was amended in some respects: those requirements that directly contradicted the Russian constitution and international law were removed from the bill.

The implementation of the NGO law has begun with “Decree No. 212” which was issued by the Russian government on 15 April 2006 and came into effect together with “Federal Law No. 18-FZ of 10 January 2006 on introducing amendments to certain legislative acts of the Russian Federation”. The Russian Tax Authorities and a new governmental agency the Federal Registration Service (FRS, “Rosregistratsia” which having existed only since 2004) are to administer this process. The law has given considerable authority to the FRS, which, according to Decree No. 1315 signed by President Putin on 3 May 2006, was to be expanded to 14 administrative units with a maximum staff of 375 (excluding security and building maintenance staff) and a budget of over \$900,000 alone in its Federal unit. Under the new regulations on registration procedures, Russian NGOs are subjects to the system of double registration by both the tax authorities and FRS. The authorities can reject the registration of an NGO at their own discretion on the basis of the content of their documents. Under new regulations on accountability procedures, NGOs are now required to inform the state authorities in detail about their activities and their management, the funds they receive (including donations), their assets, and the planned and current use of funds for all programs in Russia. NGOs are required to submit annual reports on their activities by April 15. Not submitting timely, annual reports might lead to an organization’s liquidation. In addition, the state authorities are allowed to demand *any* document from an NGO at any time, without a warrant, and be present at all NGO events.

The full consequences of the new regulations remain to be seen, yet, many NGOs have already evaluated results of the law’s first year of implementation as

negative.¹⁷ It turned out that registration-related expenses are several times higher for NGOs than for commercial enterprises. In 2006, 17 % of NGOs applying for registration failed to get it. According to official data, as of July 1, 2007 less than 24 of percent registered Russian NGOs submitted their annual reports. Thus, according to the law, the Federal Registration Service has the right to demand liquidation of 76 percent of NGOs. Moreover, many of those Russian NGOs which submitted reports have already been crossed out of the Unified State Register of Legal Entities, which actually meant nearly complete termination of their activities¹⁸.

As the current wording of the law is open to broad interpretations and there are no objective and clearly-defined criteria for assessing NGO activities, the new law allow for arbitrary and selective enforcement of new bureaucratic and political pressure on NGOs.

First, recent amendments to the laws regulating activities of non-governmental organizations¹⁹ have dramatically changed the legal environment in which NGOs operate and provided the government with more opportunities to exert tighter control over NGOs and directly interfere in the internal operations of these organizations.²⁰ N. Patrushev, head of Russia's Federal Security Service (FSB) argued in July 2005, "Non-governmental organizations must not be allowed to engage in any activity they like... We are interested in unifying the respective laws of the Community of the Independent States into clear legislation on the activity of NGOs. The NGOs must be told what problems they should tackle and for what purpose and they should engage in activity of what kind..."²¹ New "NGOs law" seems to be a stronger continuation of this way of thinking about NGO sector. Moreover, the

¹⁷ For more detail see the Interregional Human Rights Group report "NGOs and the Federal Registration Service: Five Problems of Cooperation", available at http://ngo.hrworld.ru/download/FA_2007_Report_send_10.doc.

¹⁸ According to experts of Voronezh Interregional Group of Rights Defenders, in eight regions of Russia over 600 NGOs have already been crossed out of the Register. See *Kommersant*, 20 August 2007.

¹⁹ The law "On Introducing Amendments to Certain Legislation Acts of the Russian Federation", which is commonly referred to as the NGO law and came into force in April 2006, amends four Russian laws – the Civil Code, the Law on Public Associations, the Law on Non-Profit Organizations, and the Law on Closed Administrative Territorial Formations.

²⁰ For a detailed analysis of the Law, see the Report by The International Center for Not-for-Profit-Law, February 17, 2006, available at http://www.icnl.org/knowledge/news/2006/01-19_Russia_NGO_Law_Analysis.pdf

²¹ Newtimes.ru, "No Retreat fom the Cold", July 2005, http://www.newtimes.ru/eng/detail.asp?art_id=1398.

“NGO law” is not the only issue at stake, as other legal frameworks regulating the activities of Russian non-governmental organizations, including those on unions, religious associations, political parties, and business, are also in a permanent state of reformation and amendment. Consequently, Russian NGOs had to cope with a wide range of reforms over last years. Moreover, foreign grant programs are being revised quite frequently, and this also leads to considerable changes in the relationship between the state, Russian NGOs, and foreign donors. Explanations provided to justify the need for the reforms have also contributed to these changes. The Russian president has repeatedly stressed that he opposed the foreign funding of “political activities” of NGOs in Russia. Meanwhile, non-permissible “political activities” are not defined in the laws and can be arbitrarily defined in practice, given that for many in Russia the border lines between politics and policy-making is blurred. Consequently, many donor organizations have become more careful not to interfere with governmental agenda and changed – “depoliticized” – their policies and practices toward Russian NGOs. Given this, Russian NGO community perhaps rightly fear that many foreign donors will leave in disappointment, and that not only legal frameworks but also political economy of NGOs development will be dramatically affected by the reforms of NGOs legislation in Russia.

Second, the Russian leadership seems to become more and more serious about the non-governmental domain of policy-making and starts dedicating more resources to developing networks of “friendly” NGOs. Those “policy intellectuals” who support the Kremlin have advanced the idea of the importance of “soft power” weapons, which comprise media outlets, internet websites, expert networks, and regular conferences.²² And the creation of government organized non-governmental organizations – GONGOs – seems to have been devised by the Russian officials to tackle criticism at international fora and to demonstrate the existence of Russian societal norms,

²² Nicu Popescu, “Russia Soft Power Ambitions”, CEPS Policy Brief, no.115, October 2006. Ivan Krastev, “Democracy “Doubles””, Journal of Democracy, Vol. 17, no. 2, April 2006, available at http://www.cls-sofia.org/uploaded/1146585071__4__krastev_pp_52-62.pdf

including norms concerning human rights.²³ Certainly, the rise of human rights GONGOs will increase uncertainty and competition in the sector where hundreds of organizations already compete for resources and attention from decision-makers and the public.

1.3.1. Opportunities for NGOs

Putin's move to centralize decision-making power and to deal with the NGOs in a more proactive manner – which many criticized as “smart authoritarianism” – can ironically make NGOs' involvement in policy-making possible and more effective.

First, several new institutions have been established to serve as forums for both people from government and NGOs. In part to design institutional arrangements linking state and society, the Council for Fostering the Development of Civil Society was discussed and finally founded in November 2004, to replace the Presidential Human Rights Commission. Moreover, in 2003-2006, the “public council and chamber boom” hit Russian regions and ministries.²⁴ In 2003, the public council was established at the Ministry of Justice. In 2005, the Public Chamber of the Russian Federation was founded with proclaimed aim “to analyze draft legislation and the activities of the parliament, as well as to monitor federal and regional administrative bodies.” Representatives of many human rights NGOs became active members of these new organizations. Although new public councils and chambers are heavily criticized by many pessimists as a pale imitation of democratic practices, they, at the same time, are seen by optimists as promising institutionalization of (human rights) NGOs' involvement in policy-making. It is also important to mention that since 2006 the Public Chamber has run

²³ The initiative to establish “a Russian human rights organization for monitoring the observance of freedom of speech and the fundamental human rights in the United States, Europe, and other Western nations” was announced in the beginning of 2007 by Anatoly Kucherena, Public Chamber member. Recently, on EU-Russia Marfa summit, President Putin has revealed plans to set up a non-governmental institute of freedom and democracy in one of Europe's capitals, possibly in Brussels. See *RB-Ru Daily*, 28 October 2007, available at <http://www.rb.ru/topstory/politics/2007/10/28/153604.html>.

²⁴ According to the List of Public Chambers available at the website of the Public Chamber of the Russian Federation, there are 20 public chambers operating in Russian regions.

competitions for the so-called presidential grants and thus has become involved into managing new rounds of grant-based NGOs activities. For 2008, approximately € 35 million 200 thousand will be granted to Russian NGOs, including approximately € 3 million 800 thousand to be used in NGO-run projects in the area of human rights²⁵.

Second, President Putin made criminal procedure reform a clear priority of his first administration. Because problems with criminal procedure lay at the heart of some of Russia's worst human rights violations, the passage of the new Criminal Procedure Code in 2001 represented an important advance.²⁶ The passage of the code and an effort by the Russian government in the years after 2001 to ensure the code would be put in practice created window of opportunity for many actors, including human rights NGOs, to carry human rights norms and values into the Russia policy-making process. Drafting and implementing new legislation continue to be on the Russian political agenda, and this creates opportunities for NGOs to reach those from various professional groups who seek change in specific areas of policy regarding human rights issues. Certainly, bureaucratically driven process of legal reforms may be too selective, slow or constrained by political consideration. Yet, it may provide those who involved in policy-making with incentives to deepen their understating of human rights issues and those from NGOs with opportunities to communicate their ideas and foster formal and informal channels of access to policy-making process.

In sum, human rights NGOs have a chance of capturing a space in state-dominated policy-networks although to do this they have to solve a two-level puzzle. The two levels of this puzzle are as follows: the first is the highly-politicized approach to human rights issues shared by many high-level Russian politicians (often with "own Russia way" argument as part of their diplomatic and political style). It is on this level where criticism on human rights situation in Russia as whole and Chechnya in particular is rejected and the Western assistance to human rights NGOs is seen as attempts to impose on Russia alien values and models of political development. The second level

²⁵ *Kommersant* 204, 07.11.2007.

²⁶ Matthew Spence, "The Complexity of Success: the U.S. Role in Russian Rule of Law Reform", Carnegie Paper, no. 60, July 2005.

is marked by less-politicized approach shared by those professionals within governmental agencies who are involved in more technical aspects of planning and implementing legal reforms and thus demonstrate more readiness to replicate many parts of European policies which they consider as appropriate and effective for Russia. While the first approach is easily noticeable in numerous speeches and public statements of Russian politicians²⁷, the strength of the second one is not so obvious for outside observer but, nevertheless, should not be underestimated. And a key practical issue for human rights non-governmental actors is how to broaden their access to sympathetic bureaucrats and politicians, how to act as a trigger for more social learning in government, and how to make NGOs' advice and expertise accepted as valid and useful by decision-making elites.

Russian human rights NGOs community is large, vibrant, deeply-networked and diverse, though it develops in a controversial legal and normative environment and currently faces many serious challenges. One challenge which Russian human rights NGOs face today is to reframe the problems they are trying to solve, to deepen understanding of their activities in public opinion and the mass-media, and to build connections with ordinary Russians. Another crucial challenge for Russian human rights NGOs is to build cooperative engagement with government and capture a space in state-dominated policy-networks. Certainly, possible answers to these challenges from Russian NGOs will be in large part shaped by Russian domestic landscapes. Yet, to date foreign assistance employed to promote human rights in Russia has also been an important factor influencing the relationship between the state, Russian NGOs, and the public in the field of human rights. The crucial question here is if and how EU's human rights promotion activities fits this policy area.

²⁷ For instance, President Putin recently confessed once again that, in his view, criticism pointing to violations of human rights in Russia "is largely used as an instrument to influence political life inside Russia and as an instrument that helps some state to achieve its foreign policy goals in relation to Russia with the help of this kind of demagogy." Interfax, February 10, 2007.

2. EU's assistance to Russian human rights NGOs: mechanisms and results

The EU's Russia policy as regards human rights has been shaped not only by the EU interpretations of Russia's political and human rights situation but also by the Community's desire to present itself externally as a devoted guardian of human rights. During the last decade the EU has gradually strengthen its rhetorical commitment and its financial instruments to assist human rights promotion around the world.

The willingness of the EU to develop a human rights policy was not apparent till the early 1970s. Yet, once the European Court of Justice (ECJ) and the other Community institutions have established that respect for human rights was a part of the general principles of European Law (from 1969 onwards), the discourse of human rights began to infiltrate the EU rhetoric and projects. It took another twenty years for the Community to start consolidating a human rights policy towards third states. Then, amidst the euphoria induced by the end of the Cold War, the Community rushed to present human rights as an essential element both of the Community and the European model that it upheld. Human rights became more and more apparent in negotiations and agreements between the EU and the newly emerging democracies in Central and Eastern Europe (CEE). By the mid-1990s, the Commission began to be explicit in suggesting that respect for human rights should be among the key conditions attached to the "Europe Agreements" to be signed with those CEE countries that were seeking accession to the European Union.

It was in this context that the EU developed its policy towards Russia and drafted the Partnership and Cooperation Agreement (PCA) between the European Union and the Russian Federation. The long text of the PCA was based on the EU's conception of how its neighborhood relations should be organized and became a weak derivative of the "Europe Agreements". The first principle of the PCA, signed between the Russian Federation and the European Communities and their member states in 1994, declares that "convinced of the paramount importance of the rule of law and respect for

human rights, particularly those of minorities, the establishment of a multiparty system with free and democratic elections and economic liberalization aimed at setting up a market economy". The EU and Russia have agreed that "respect for democratic principles and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for New a New Europe, underpins the internal and external policies of the Parties and constitutes an essential element of partnership and of this agreement". The PCA relationship was designed as one of soft political coordination rather than one of strict conditionality. The EU has led Russia to admit that human rights matters should be included into the EU-Russia cooperation agenda, but didn't try to use a window of opportunity open in the mid-1990s to push forward a more legally binding deal with Russia regarding human rights.

Further events clearly demonstrate that cooperation and partnership between the parties suffer in large part from the continuing and even sharpening divergences between the EU and Russia. These divergences go to the fundamentals of the self-identification of both the EU and Russia and to their views of each other's will and ability to engage seriously in human rights matters. While the EU has constantly stressed its commitment to serve as one of principal guardian of human rights on the Euro-Asian continent, the Russian side questions the EU ability to build-up a pan-European human rights regime, and the very necessity of such attempts given the existence of the Council of Europe. While the EU criticizes Russia for its bad human rights record, the Russian side questions if the actual policy of the EU matches its fine words and rhetoric on matters of human rights.

Within Russia the debate grows. On the one hand, Russian political leaders constantly argue that modern Russian-ness is deeply embedded in European-ness, and Russia shares with the European Union the values of democracy, good governance, and human rights. Culturally and politically, they say, Russia belongs to Europe; Russians value human rights as high as other Europeans do; and Russia's partnership with the European Union has been expression and recognition of Russia's European identity. At the same time, arguments are raised that Russia constitutes a distinctive part of European civilization. And rather than ape EU values, Russia should break its ideological dependence on western theories, articulate its own unique values

and defend the “Russian version” of human rights, models of democracy and path to it, as well as the Russian way to good and effective governance. This line of argumentation leads to claims that the European Union has not always been equitable, as it “employs” double standards in assessing the human rights situation in Russia and trying to impose on the country alien values and governance models on the tacit understanding that, unlike EU member states, Russia requires constant scrutiny, shaming and the presence of potential negative measures to ensure human rights are respected. Against this background, it is not surprising that Russia has resisted EU proposals to spend more time and space for human rights-related issues within the Four Common Spaces Agreement.

Within the EU debate grows as well. Some European decision-makers, concerned by the worsening human rights situation in Russia which is constantly reported by human rights NGOs, strain to put human rights at the head of the EU-Russia agenda and advocate the inclusion of appropriate clauses in the new PCA (that, in their view, will bind the Kremlin to abide by international human rights legislation). Others show much less eagerness to subordinate other key issues in the EU-Russian relationship to criticism of Russia’s domestic situation and seem to be ready to sign “sectoral agreements” that will ensure trade, transport, energy and investments links with Russia at the expense of insisting on “problematic” clauses about human rights and rule of law. Many within the EU are concerned about the values gap between the EU and Russia and raise the question on how far the EU should go in deepening the declared “strategic partnership” with Russia when the human rights values gap between the parties is widening. These are also questions about how to bridge the gap between the EU high ambitions to converge Russia on European values and its relatively limited achievements in this field. In this context, a key practical issue is if and how to reform the EU human rights policy and rule-of-law assistance to Russia.

To date, the EU has developed a complicated mixture of human rights policy instruments (see Table 2) as well as an ambitious external governance agenda which seems to be in large part about the transfer of EU visions and practices to its new neighbors. This agenda has been fundamentally shaped by the belief that the EU can act as a “norm-sender”, i.e. can succeed in

getting its neighbors to conform to its norms and rules and thus trigger policy changes in the new\EU neighborhood. The EU external agenda employs symbolic, material, and institutional means of influence and several strategies for promoting protection of human rights by EU's neighbors, including:

Shaming = creating an international and domestic climate of opinion critical of national human rights practices;

Positive / negative conditionality = offer or withdrawal of assistance, trade agreements, association agreements, and the promises of potential EU membership as a reaction to neighbor's human rights behavior;

Cooptation = gradual and limited involvement of policy actors from neighboring states in EU policy-making process, in such a way as to trigger their behavioral adaptation and social learning.

For the topic at hand it is important to stress that the EU proclaims its eagerness to introduce the non-governmental element into its policies. From a more theoretical perspective, the supportive conceptual framework informing EU's human rights promotion policy seems to draw inspirations from at least the two theories: liberalism and constructivism. The EU's policy presupposes the existence of non-state actors that can be motivated to pressure the government for compliance with human rights norms (as liberals would argue) or (as constructivists would argue) can become agents in "Europeanization-by-socialization" process which in due course would see Russian society and government convergence on human rights values²⁸. From a policy perspective, it is important that both approached merge/overlap on conceptualizing NGOs as influential agents for policy change. Against this background it is not surprising that NGOs involvement into human rights policy-making has become an obsession of the EU policy makers in the past decade.

²⁸ For more on theoretical discussions see Hans Peter Schmitz and Kathryn Sikkink, *International Relations Theory and Human Rights*.

Table 2:

EU's human rights policy: instruments

- ✓ Diplomatic pressure in response to violation of human rights (through confidential or public demarches, joint statements, refusal to act on partner's initiatives, deferment of signatures needed to implement agreements); human rights dialogues and consultations can also be used as a form of diplomatic pressure;
- ✓ Scrutiny (monitoring) which is effectively designed and functions with various sources of information used (reports by Commission's delegations and the relevant embassies of the Eu member-states; assessment from international organizations including the Council of Europe; reports by international and local NGOs);
- ✓ Negative measures which include a number of graded responses to violation of human rights by third states (postponement of new projects; reduction of cultural, scientific or technical cooperation programs; trade embargoes; suspension of cooperation with the state concerned);
- ✓ Positive measures which have been considered an essential element of the external human rights policy and include technical and financial assistance programs (such as the PHARE, the TACIS, and recently the ENPI) and the EIDHR that grant financial assistance to non-governmental actors worldwide.

The crucial importance of NGOs for human rights and democracy promotion has become acknowledged in EU official texts, and the idea of promoting human rights in Russia through the development of Russian human rights NGOs have become embedded in EU policy discourses. Thus, at the rhetorical level the support to Russian human rights organizations has become an integral part of the working agenda by which Brussels has set about bringing European norms and values to Russia. In practice, the EU's commitments include: maintaining and encouraging dialogue between EU institutions and Russian human rights NGOs; promoting active NGOs involvement in certain human rights practices (in particular, monitoring and consultations); ensuring access to funding resources; helping organisations to establish links outside their own country and giving a higher profile to the sector.

(1) The EU practice of monitoring and reporting human rights situations in third countries involves a large part of information sharing between the EU institutions and local human rights NGOs. Russian NGOs have become an important source of information and expertise concerning the human rights situation in the Russian Federation. Information, provided by NGOs, is used in preparing EU missions' annual human rights "fact sheets", EU Annual Human Rights Reports, and background papers for discussions and hearings at the EU institutions. In some cases, it is the initiative by Russian NGOs to bring the actual cases of human rights abuses to the attention of the Commission's directorates and the Delegation in Moscow.²⁹ In other cases, rather than waiting for information from local organizations, the Directorates General and European Parliament may commission Russian NGOs to prepare reports on human rights situation in the country. By doing this, EU policy makers not only get information on the issue but, at the same time, establish NGO's reputation as an effective watchdog and as a valuable source of expertise.

In sum, involvement of Russian NGOs in the EU practice of human rights monitoring is effectively designed and functioned. Many Russian human rights NGOs clearly demonstrate their ability to act as watchdogs critically monitoring the activities of Russian state agencies. Yet, it is important to note that those organizations involved in scrutiny activities initiated by external actors usually face serious difficulties when trying to build trust and partnership relations with domestic governmental agencies. Thus, active involvement in EU human rights monitoring may seriously restrict the ability of an NGO to build positive relationship with state actors and to socialize them into EU-sponsored human rights ideas. This is quite well illustrated by the dynamics of EU-Russia human rights consultations.

(2) The EU seems to start making serious efforts to bring human rights NGOs into the dialogue which EU and Russian officials have over human rights issues. In 2006, the EU proposed changes to the design of the EU-Russia human rights consultations, namely to broaden the list of participants

²⁹ The channels of communication between Russian human rights NGOs and the Commission are so well developed, that it may take less than two hours to report a case of human rights abuse happened in any Russian region to the Commission offices in Brussels.

from Russian ministries. The other proposal for Russian officials was to take part in additional, less formal days of consultations during which human rights issues are discussed with representatives of international and Russian NGOs. Until now, this initiative has not yet been realized in large part because Russian officials insist to keep these talks “conventional and professional” and claim to use them as an opportunity to discuss sensitive issues with their European colleagues – directly and constructively, but not for the press or watch-dogging NGOs.

At the time of writing, it is clear that the consultations are seen as unsatisfactory by all parties involved. In the EU view, the consultations continues to be important, as they help to keep the channel of communication with regard to human rights open, but, at the same time, they seems to be ineffective and reduced to repeating the same message year after year. Representatives of Russian NGOs argue that the consultations have reached a dead end, in large part because EU representatives, Russian officials and international and Russian NGOs have so far failed to hold joint talks.³⁰ In Russian official view, the effectiveness of EU-Russia human rights consultations is seriously undermined by the incoherence between the EU’s internal and external human rights practices: human rights issues acquire a much more significant presence in EU’s Russia policy than they do internally. The EU has developed a well-functioned structure of human rights scrutiny for external cases, including Russian, but still lacks any systemic approach to address human rights problems within the EU.³¹

³⁰ RFL/RL, October 3, 2007, <http://www.rferl.org/featuresarticle/2007/10/D264D180-8A70-4CC6-92E1-A0B0894184D1.html>

³¹ Authors’ interview with Mikhail Evdokimov, 16 February, 2007.

EU Human Rights Dialogues / Consultations

EU Human Rights Dialogues (HRD) – is a new type of human rights policy instrument used by the EU. Formal HRD was installed by the EU as a reaction to the UN Commission on Human Rights' inability to address serious and well-documented violations of human rights in China. The EU's first institutionalized HRD was initiated with China; HRD was then maintained with Iran. More recently dialogues with Central Asian countries (Uzbekistan, Turkmenistan, Kazakhstan, and Kyrgyzstan) have been initiated. In addition, HRD are conducted with Egypt, Morocco, Israel, Jordan, Lebanon, and Tunisia in the context of EU-ENP relations.

The EU guidelines on HRD were developed and adopted in 2001 and then slightly revised in 2004. The main aims of the HRD are (1) to improve the human rights situation in the country with which the dialogue is initiated and (2) to keep the channel of communication with regard to human rights open. Results of HRD are yet to be evaluated, and Committee on Foreign Affairs – Subcommittee on Human Rights of the European Parliament is currently in the process of preparing a report on the functioning of the HRDs.

Russia became the third country, after China and Iran, with which bilateral discussions on human rights were organized. It was agreed at the November 2004 EU-Russia summit that the EU and Russia will have Human Rights *Consultations* twice a year at the level of senior officials. (The term "dialogue" was refused to be used by Russian officials as they did reject the idea of being put into the same category as China and Iran). Russia is represented by officials from the Department of Humanitarian Co-operation and Human Rights of the Russian Ministry for Foreign Affairs; and the European Union by officials from the Presidency of the EU (current and forthcoming), the European Commission, and the Council of the EU. To date, there have been 6 rounds of the EU-Russia Human Rights Consultations (with the most recent being held in October 2007) that have addressed a wide range of issues. As these consultations are claimed to be held on a "reciprocal basis", their agenda include discussions on the situation with human rights and fundamental freedoms not only in Russia, but also in the EU

and worldwide. Facing constant difficulties in drafting a joint press release, the Russian and the EU sides issue separate press releases summarizing discussion during the Consultations.

(3) The EU has spent and continues to spend considerable financial resources aimed to assist NGOs through a complicated mixture of various programs and projects. And the EU assistance to Russia, including civil society assistance, has been embedded in and shaped by the larger institutional landscape of EU foreign aid.

For more than a decade, the main instrument of EU assistance to Russia had been the TACIS program³² that was launched to provide grant-financed technical assistance to support the transition of Russia (and all other former Soviet Republics with the exception of the three Baltic states) toward a market economy, democracy, and the rule of law. During the period from 1991 to 2005, Russia had been the biggest beneficiary of EU support to the countries in the post-Soviet region: it has received € 2.7 billion, which constituted about half of all TACIS funding³³. Human rights promotion and assistance to those actors involved in fostering the rule of law in Russia were proclaimed as one of TACIS priorities.³⁴ The EU implemented a number of TACIS-based focused programs primarily designed to support civil society in Russia. They include LIEN (Link Inter European NGOs) Program and its successor IBPP

³² The TACIS in the last year of its existence was known as EU-Russia Cooperation Program.

³³ This money was used in 1500 projects in 58 Russian regions (a proportion of which was channeled through or granted to NGOs. TACIS was based on project-management approach, with projects proposed either by the Commission or by delegates of the member states. Once a project is adopted, a call for tender follows to solicit proposals on how to implement the project. A call for tender normally included both general and specific objectives and a description of eligible costs. Applicants were normally given either 60 or 90 days to respond to the call and submit the full application including proof of eligibility documentation and a detailed budget. From those tenders which successfully met the deadline and submitted all required documentation, the final project partner was selected by the European Commission.

³⁴ The "Country Strategy Paper 2002-2006 on Russia", adopted by the European Commission within the TACIS framework, stipulated that "the EU cooperation objective with the Russian Federation are to foster respect of democratic principles and human rights, as well as transition towards a market economy".

Since 2000 the TACIS national programs had three priority areas for each target countries. The last TACIS regulation, which covered the years 2000 to 2006, identified the following priorities for Russia: support for institutional, legal and administrative reform, support to the private sector and assistance for economic development, support for addressing the social consequences of transition.

(Institutional Building Partnership Program) which aimed to interlink Russian non-governmental organizations (NGOs) and local/regional authorities with their EU counterparts³⁵. Although it is often stated by EU officials that Russian NGOs constituted the large proportion of those organizations selected as TACIS project partners, at the time of writing no complete data on TACIS financial aid to NGOs are available.

From the very beginning, the process of offering EU assistance was confusing particularly in relation to the financing and choice of projects. But in 1994 many resources were grouped together under one budgetary heading entitled the “European Initiative for Democracy and the Protection of Human Rights” (EIDHR)³⁶. The EIDHR has more thematic approach, offering assistance to NGOs active in the areas of democratization and human rights. It is important to note that the EIDHR, created by an initiative of the European Parliament, is unique among EU programs because it does not require host government consent and offers assistance for only NGOs based in recipient country, in our case, in Russia.³⁷ It means that the EIDHR can enable the EU to develop civil society support to some (albeit modest) degree in opposition to governments. Moreover, some European politicians see the EIDPR as unique among other EU human rights and democracy assistance programs since it is “the single mechanism left for the EU to influence Russian human rights situation as all other purely democratic projects have turned to be almost totally fruitless”.³⁸

Since its launch in Russia in 1997, the EIDHR has supported over 250 projects. During the period from 1997 to 2000, the EIDHR has assisted Russia with approximately € 8 million for projects covering a wide range of the policy objectives of the EU policies, including raising human rights awareness. The overall indicative amount available for Russia under the 2005 Call for proposals was € 870 thousand. For 2005, the European Commission received

³⁵ During the period from 2001 to 2005, the IBPP-CS programme budget has totalled € 28 million and 135 projects have been supported.

³⁶ It was renamed the European Instrument for Democracy and Human Rights (EIDHR) in December 2006.

³⁷ In contrast to the EIDHR, all assistance under Tacis is dependent on the approval of the recipient countries' government.

³⁸ Edward McMillan-Scott's speech at the EU-Russia Center Public Hearing held at the European Parliament, Brussels, 22 November, 2006.

94 applications and selected 11 Russia-based micro-projects for funding. For 2007, 15 Russia-based micro-projects will be assisted with approximately € 1 million 450 thousands.³⁹ According to Country Strategy Paper on Russia (2007-2013), the EIDHR will remain to be an EU financial instrument to support enhancing respect for human rights and bolstering the role of civil society in the promotion of human rights in Russia. Grant funding will be provided to national and international NGOs and international organizations, including certain UN bodies.

Since January 2007, the European Neighborhood and Partnership Instrument (ENPI), linked up to the European Neighborhood Program (ENP), has become the principal new tool for providing assistance to EU neighboring countries. This instrument has been designed to finance the activities which that previously fallen under TACIS budgetary lines. The ENPI will be the EU main financial instrument for supporting the implementation of the partnership with Russia. External assistance under the ENPI is subject to a multi-annual programming circle. Every six years the EC drafts Country Strategy Papers, which elaborate the assistance priorities for the following six years. In spring 2007, the Strategy Papers for the years 2007-2013 were released. According to them, the national allocation for Russia will amount € 30 million per *annum* (that is, less than half the average annual allocation to Russia in recent years under the TACIS program).⁴⁰ Certain proportions of the national allocation will be dedicated to support of actions mentioned in the Four Common Spaces, to the development of the North Caucasus and Kaliningrad region, and to compliment so-called Russian “national projects”. Although it is mentioned in the Country Strategy Paper that human rights matters will be taken into account by the Delegation in Moscow while designing financial for Russia-based projects, the amount of human rights assistance to Russia under ENPI is not clear yet.

³⁹ http://www.delrus.ec.europa.eu/ru/docs/award_notice1.pdf

⁴⁰ EU Country Strategy Paper (2007-2013): Russian Federation, http://ec.europa.eu/external_relations/russia/csp/2007-2013_en.pdf. For the budgetary period 2007-2010 Russia national allocation will be € 120 million, Georgian - € 120 million; Moldovan - € 209,7 million; Ukrainian - € 494 million.

The above described changes in EU assistance to Russia are certainly part of the broader reform, recently launched to replace a complicated mixture of various external assistance programs by a single, more effective and policy-oriented instrument, the ENPI. At the same time, they are certainly shaped by the dynamics of EU-Russia relations. It appears that previous assistance programs in large part failed to contribute to radical improvements of EU-Russian relations, at least with regard to human rights. The growing debate within the EU and dramatic reduction of EU assistance to Russia, planned for the budgetary period 2007-2010, can both be seen as a signal that EU policy makers are dissatisfied with the result of Russia-oriented programs implemented before 2007. It is also important to note that a number of interviewees in Russian NGOs and governmental agencies confirmed that EU assistance to Russian NGOs can hardly be considered a success story.

The impact of foreign assistance on Russian NGO development has been hotly disputed by policy analysts. Some argue that foreign funding have fundamentally shaped and even created Russian NGO community, while others insist that it has limited effect on NGOs. I support the argument that foreign assistance almost always has an impact on the NGO sector it supports, but the results of this influence depends in large part on how this assistance has been managed as well as on the kind of broader strategies it is built in⁴¹.

Certainly, it would be a mistake to easily dismiss the importance of EU assistance programs to Russian NGOs. The very existence of such programs encourages and facilitates the activities of those NGOs that aim to introduce European values, norms, and practices into Russian policy-making. To some extent it is true that “the EU may not act – in a conventional sense of this word – but in the meantime exercise influence by the virtue of its ontological existence, its very presence, even *without taking particular actions*... The EU subjectivity is manifested, to a large extent, through a force of example”.⁴²

⁴¹ Lisa McIntosh Sundstrom, “Foreign Assistance, International Norms, and NGO Development: Lessons from the Russian Campaign”, *International Organizations* 59, Spring 2005, p. 421.

⁴² Andrey Makarychev, “Subjects vs. Structures: Conceptual Interrogations of the EU Pathways of Influence upon Russia”, Promoting Four Freedoms and Four Spaces in the Baltic Sea Region, Research Bulletin no. 2, 2006, pp. 9-10.

For many Russian human rights NGOs EU assistance provides additional but very important opportunities to have access to Europe-wide policy networks and to aggregate transnational (European) knowledge and competence. EU-sponsored initiatives provide both a rational and an opportunity for NGO actors to come into contact with their EU counterparts, share with them common vocabularies, world views, and become involved in professional knowledge and skills transfers. Thus, opportunities that EU assistance offers Russian NGOs include at least three important factors: knowledge, network connections, and funding.

However, EU policies of human rights NGOs assistance often failed in practice to realize their full potential to develop non-state transfer of European ideas, norms and practices to Russia and to assist successful development of Russian NGOs community.

The EU external assistance policy contains many problems that limit their ability to:

First, one important shortcoming of the EU policies is the fact that EU policy-makers, all rhetoric notwithstanding, have yet to decide how important their support to Russian NGOs should be and in what respect. While NGOs are addressed through EU different programs, there seems to be no clear strategy or prioritization of assistance in different issue-areas. At present, EU assistance to Russian NGOs represents more ad-hoc project-based financing rather than a coherent policy of building NGOs' capacity to extend the reach of Europeanization into Russia.

Second, the EU has been reforming its external assistance for years, and the reforms have so far produced controversial results. Driven by important and valid concerns over financial accountability and effectiveness, the EU has been using the financial regulation that imply financial control that stricter than usual standards in both public and private sectors.⁴³ Consequently, EU assistance has not been easily accessible to local non-state actors, given the complexity of the application and reporting requirements, requiring expert

⁴³ K. Raik, "Promoting Democracy through Civil Society: How to Step Up the EU's Policy towards the Eastern Neighborhood", CEPS Working Document, No. 237 / February 2006.

knowledge of EC systems. Grants are repeatedly given to those organizations that had proven their ability to follow procedures and reporting requirements established by the EU, while newer, smaller NGOs with short grant history are often left without funds. The other problem is that EU policies and practices often lead both to self-censorship among NGOs and greater conservatism from EU officials. Organizations that are able to communicate referring to the language and agenda current among EU policy makers are more likely to be successful in their grant applications. As a result, quite often grants are awarded to those organizations which have learned EU bureaucratic language and agenda well rather than to those NGOs which are ready to experiment with innovative projects and eager to find new ways to transformation change in sensitive political contexts.

Third, although the current EU human rights assistance programs are expanding in Russia, there is still lack of accumulated knowledge about “lessons learned” by both EU policy-makers and human rights NGOs. Although NGOs do have to present official reports as evidence that they are taking seriously the need to reflect on their own work, very often these reports are purely descriptive rather than analytical and strategic. Remarkably little writing has come out from human rights policy community about the experience accommodated by Russian NGOs in the field of bringing human rights norms and practices to Russia.

Fourth, it is crucially important to note that the kind of interactions that the EU wants with Russian policy-makers and Russian non-state actors over human rights is far from obvious for many in Russia. Many Russians seem to lack a clear understanding of what they can get from a multitude of EU-sponsored projects implemented by Russian human rights NGOs. This can be partly explained by little media attention to the positive measures used in EU’s Russia human rights policy. EU criticism of Russia’s human rights situation has usually attracted a lot of media coverage. Yet, information on what the EU and NGOs have been doing in addition to critically monitoring the Russian state is difficult to find in the mass media. It can be partly explained by the fact that there is a serious lack of timely and easily accessible information about this policy and EU-sponsored projects implemented in Russia.

In the broader field of human rights assistance, the puzzle has been for both the EU and human rights NGOs to translate the overarching idea of human rights into a series of clear and appealing messages they can communicate to decision-makers and general public. At more basic level, the challenge has been for both the EU and human rights NGOs to develop effective communication strategy to disseminate timely and valuable information about EU-sponsored projects implemented in Russia.

3. What is to be done?

The European Union can doubtless keep the formal dialogue with Russia over human rights going by continuing its current Russia's policy. Yet, the result of this formal, modest and fragmentary dialogue is very likely to be disappointing to both parties. If the EU is to develop as a serious actor in the field of human rights promotion, it will have to find new and creative ways to talk with Russians about human rights matters.

At a strategic level, EU policy-makers should answer several crucial questions on if and how to re-design EU existing strategies for promoting protection of human rights by Russia. First, how much emphasis should be place on shaming given that all EU efforts to shame the Russian government appears to have been unsuccessful? Shaming always requires the active support of domestic, in our case Russian, public. To date, EU shaming strategies have succeeded in creating an international climate of opinion critical of Russian human rights behavior but failed to undermine the Russian government's reputation at home. Moreover, EU shaming strategy, not yet resulted in major policy victories, has tended to increase the detachment from the wider Russian population of those human rights NGOs that are involved in shaming and monitoring. Second, how effectively positive/negative conditionality can be used with regards to the country which is voluntarily distancing itself from the EU and, at the same time, with which the EU seems to be in great interdependence? At the moment, there is little evidence from Russia that positive or negative conditionality in support of human rights are

effective. Moreover, for many in Russia the credibility of human rights conditionality has been undermined because of widely-accepted views that conditionality measures taken by the EU with regard to Russia are not always guided by objective and equitable criteria. Third, how successfully cooptation strategy can be employed given that Russia has refused to be part of the ENP and has resisted EU proposals to put more emphasis on human rights matters within the Four Common Spaces Agreement? The problem is that, from the Russian point of view, such a strategy is unacceptable unless Russia gains a say in designing EU policies and that, from the EU point of view, non-members cannot be part of EU internal decision-making.

The strategies for human rights promotion employed by the EU seem to be ill-adapted to the current context of the EU-Russia relationship. These strategies are largely designed as an experimental weak derivative of the policy developed in the course of the EU enlargement and are based on the belief that the EU acts as a magnet, leading to revolutionary policy changes in neighboring countries, as evidenced by Central and Eastern Europe in the 1990s. EU policy-makers have often commended the enlargement policy as well as the role played by NGOs in human rights promotion in Central and Eastern Europe, and constantly professed themselves as eager to duplicate this experience elsewhere. However, this success may be difficult to replicate since the contemporary situation in Russia is very different from that of the early-1990s Central and Eastern Europe. In contrast to the latter, neither the majority of Russian policy-makers nor broad sectors of Russia are convinced about the benefits of the policies offered and models espoused by the EU. Therefore, it would be a serious mistake to expect that "Europeaness" would be brought rather quickly to Russia in the same way it had to other neighboring countries.

Russia puts the EU's policy to the test, as demonstrated by the lack of real progress in the ongoing dialogue between the two parties. This situation demands a far-reaching rethink of the approach the EU takes to human rights promotion: either the EU's existing policy will be restructured to meet new challenges or Russia will continue to limit EU-Russia cooperation over human rights.

In response to this situation, the EU may adopt a three-fold policy. The EU should put aside unrealistic expectations about speedy policy change in Russia. Successful way to foster human rights in the country should be extended through slow process, and the EU does not need to rush to change the Russian views. Strongly pressuring actors from inside and outside the government to commit themselves to EU understanding of human rights before they are ready to accept it voluntarily is to invite disappointments and open non-compliance. Second, the EU should put more focus on engaging with Russia through other multilateral organizations that share a broadly common vision of human rights. While it is difficult to develop the direct dialogue between the EU and Russia over human rights, there are still opportunities to use other existing dialogues and human rights regimes in which Russia has been involved. It is important to foster a sense of Russia's belonging to pan-European milieu where human rights norms, values and practices are shared. Here the particular concern should be on making use of those mechanisms and commitments that Russia has entered into and taken within the framework of Council of Europe. Considerable part of EU's support for Russian human rights NGOs could also be channeled through Council of Europe (See Annex 1). Third, it is important to continue (and increase) EU assistance to Russian civil society organizations in the field of human rights and the rule of law promotion. To date, the EU has largely escaped the opprobrium attracted by many other Western donors and could use its comparatively neutral image to continue support for those Russian actors who have been trying to push forward human rights related projects. Yet, there is a strong need for improving the quality of the EU assistance.

At an operational level, EU policy-makers should answer the question on how to tailor large budget lines and complicated mixture of assistance programs and instruments for the Russian context. Derived from the analysis of current practices, the following steps are recommended:

✓ Develop new forms of cooperation between various EU institutions and actors and Russian NGOs.

This would require not only consultations with individuals representing Russian NGO community, not only support for various NGO-led projects, but also the consistent involvement of civil society organizations into discussing and preparing new partnership agreements between the EU and Russia. Cooperation between EU policy-makers and Russian NGOs should not limit itself to the modest input of information from NGOs on human rights situation in the country and from the EU on new European initiatives and tenders. It is important to ensure regular input from Russian actors into the design and implementation of human rights assistance programs and other EU initiatives addressing the issues of human rights in Russia. Russian policy analysts could be encouraged to provide independent assessments of projects success, to submit reports on the extent of EU support for human rights in Russia, and to produce human rights and the rule of law *strategy* papers. This would ensure that EU-sponsored initiatives and projects would be more tailor-made for Russia.

✓ Develop and implement effective public communication strategies

To date, the striking aspect of the EU policy is the limited amount of effort so far devoted to reaching the Russian public and raising the visibility of EU human rights projects. Perhaps it is partially the result of the highly bureaucratized nature of EU policy towards Russia and the role of Brussels bureaucrats as the principal intermediaries between Russia and the EU. Almost never do EU officials share with the Russian public or even the broader elite their hopes and aims of their concerns and misgivings. But if the EU is serious about taking a greater role in human rights promotion, it should develop its public diplomacy capabilities and consider how better to speak and to listen to Russian public.

- It is important for the EU to become increasingly sophisticated in forming the messages to the Russian public (and to the state) regarding human rights observance. The ability to frame human rights

issues in terms appealing to the Russians would help to build public awareness and change the ways human rights and human rights NGOs are seen and treated. At the moment, the EU actors collectively and in key bilateral contacts have challenged what they see as Russian excesses in Chechnya and the Russian way from democracy. But neither EU's concerns over Chechnya nor its worry over the lack of democracy in Russia have been much helped. Had the harsh criticism over, human rights issues been framed in ways more well understood in public opinion, the dialogue of the EU and the Russian public might have been more effective. Because of the Russian normative context discussed above, the ability to frame problems in terms of economic and personal rights are more likely to raise public awareness and support to human rights NGOs.

- It is important to increase support for the public diplomacy and communications activities of the EU delegation to Russia. At the moment, the Moscow delegation seems to work hard to make the delegation's website more user-friendly and raise the public profile of the EIDHR, but much remains to be done. There is great need for timely, more detailed and user-friendly information in Russian about projects and programs supported and run by the delegation.
- It is important to develop and harmonize communications activities of NGOs - recipients of the EU support (including strategic communications planning and coordination, better research and feedback, increasing the projects' profile, and better use of multimedia and internet tools). It would be useful if human rights projects supported by the EU would have a proportional budget for communications and media outreach activities. NGOs must be encouraged to reach out to local media and other civil society organizations and improve their communications strategies.

✓ *Expand and Improve the EU's assistance for Russian NGOs*

Feedback from local actors highlights how EU's initiatives have seriously suffered from the rigidity and inflexibility of funding procedures. There are many technical problems of EU's financial instruments not being user-friendly. Therefore, the EU has paradoxically discourage rather than encourage Russian NGOs to benefit from EU funds. The establishment of a coordinating unit within the Commission and/or EU foundation to deal specifically with all assistance to NGOs is worth a serious consideration. In the meantime, the EU should re-design and simplify its contracting and accounting procedures and to become more responsive to NGOs requests.

- It is important to make application procedure more user-friendly: to publicize information about new tenders and issue calls for proposals well in advance. Although exact details may be provided at the time of the call, advance notice should provide tenders' basic rationale and purpose. It is useful to organize regular informative campaign to communicate to local NGOs in various Russian regions opportunities, requirements and conditions of EU-funded programs. It is also useful to publicize a set of minimum standards and requirements for those NGOs that, in the view of the Commission, are eligible for EU funding. This information will eventually help NGOs in identifying the grants and programs which they can apply for;
- It is important to find ways to simplify reporting procedures for EU-funded projects. A growth in demand for written report and various financial reporting documents have gradually been tightened in Russia. NGO staff at all levels now put many hours into writing detailed reports to various Russian state agencies. Therefore, EU extremely tight reporting procedures are not well tailored to the reality of Russian NGOs, especially given that this reality has been dramatically challenged by new Russian legislation on NGOs.
- It is important to provide funding for small local NGOs. At the moment, EU funding programs predispose it to large professional NGOs with the ability to meet EU cumbersome application and reporting requirements and, often, with a good command of English and good understanding of EU system. Certainly, many Russian human rights NGOs are run by experienced experts and project-managers and can cope with complicated EU schemes of funding. Yet, there are also many small and active NGOs, made up of people who work in many Russian regions and with strong social and human rights commitments. For many of them EU support would allow to survive and grow in a difficult environment, but most of these organizations cannot afford to engage in a battle for EU funding. It would be useful to establish new system of flexible micro-projects to bring EU support to these small local NGOs.

✓ *Put more focus on assessing and publicizing the stories of success and lessons learned from more than a decade of human rights assistance to Russia.* A systematic "lessons learned" exercise, examining the effectiveness and shortcomings of human rights assistance given by the EU to Russia over the past decade, would help the EU develop more sophisticated and nuanced initiatives and provide further accountability for EU policies. What is also at stake here is the powerful signals about the ability of the EU to deliver results and to act as a problem-solver.